

## **IC 22-3-11**

### **Chapter 11. Residual Asbestos Injury Fund**

#### **IC 22-3-11-1**

##### **Creation; administration; use of fund**

Sec. 1. (a) There is created a special fund known as the residual asbestos injury fund (referred to as "the fund" in this chapter) for the purpose of providing compensation to employees who become totally and permanently disabled from an exposure to asbestos while in employment within Indiana and who are eligible for benefits under section 3 of this chapter and not eligible for benefits under IC 22-3-7. The fund shall be administered by the worker's compensation board (referred to as "the board" in this chapter).

(b) The fund is not a part of the general fund. Money in the fund at the end of a particular fiscal year and interest accruing from the investment of the money does not revert to the state general fund. The fund shall be used only for the payment of awards of compensation and expense of medical examinations made and ordered by the board and chargeable against the fund under this section and shall be paid for that purpose by the treasurer of state upon award or order of the board.

*As added by P.L.224-1985, SEC.5. Amended by P.L.28-1988, SEC.66.*

#### **IC 22-3-11-2**

##### **Assessments; deposit in fund**

Sec. 2. (a) This section applies to:

- (1) each insurance carrier insuring employers who may be or who are liable under IC 22-3-2 through IC 22-3-7 to pay compensation; and
- (2) each employer carrying its own risk to pay compensation under IC 22-3-2 through IC 22-3-7.

(b) Before August 1, 1985, and April 10 in all subsequent years, each insurance carrier described in subsection (a)(1) and each employer described in subsection (a)(2) shall pay to the board for deposit in the fund the assessment specified in subsection (c):

- (1) until the initial balance in the fund is equal to or greater than two hundred thousand dollars (\$200,000); and
- (2) after the initial balance in the fund satisfies subdivision (1), only if the balance in the fund on April 1 of the year of the assessment is less than fifty thousand dollars (\$50,000).

(c) An assessment required under subsection (b) equals one-half of one percent (0.5%) of the total amount of worker's compensation and occupational diseases benefits paid to injured employees or their beneficiaries during the calendar year immediately preceding the due date of the assessment.

*As added by P.L.224-1985, SEC.5. Amended by P.L.28-1988, SEC.67.*

#### **IC 22-3-11-3**

**Eligibility for benefits; computation of benefits; dependents of deceased employees**

Sec. 3. (a) An employee who:

- (1) becomes totally and permanently disabled:
  - (A) on or after July 1, 1985, from an exposure to asbestos in employment before July 1, 1988; or
  - (B) before July 1, 1985, from an exposure to asbestos in employment and files a claim under this chapter before July 1, 1990;
- (2) is unable to be self-supporting in any gainful employment because of the disability caused by the exposure to asbestos; and
- (3) is not eligible for benefits under IC 22-3-7;

may be eligible for benefits from the fund if the employee is not entitled to other available benefits from social security, disability retirement, or other retirement benefits or third party settlements equal to or greater than sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the average weekly wage, as defined in IC 22-3-7-19, at the date of disablement. An employee's eligibility shall be determined by the board by rule adopted under IC 4-22-2.

(b) If the employee has other available benefits but they are less than sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the average weekly wage at date of disablement, the employee is eligible to receive from the fund a weekly benefit amount not to exceed the difference between the other available benefits and sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the average weekly wage on the date of disablement for a period not to exceed fifty-two (52) weeks.

(c) If the employee dies before exhausting the remainder of the benefits to which the deceased employee was entitled for the fifty-two (52) week benefit period, the greater of:

- (1) the remainder of the benefits; or
- (2) four thousand dollars (\$4,000);

shall be paid to dependents of the deceased employee as determined under IC 22-3-7-12 through IC 22-3-7-14.

*As added by P.L.224-1985, SEC.5. Amended by P.L.95-1988, SEC.20.*

**IC 22-3-11-4**

**Additional benefits**

Sec. 4. (a) An employee who has exhausted the fifty-two (52) week maximum may be awarded additional compensation by the board in periods of no more than fifty-two (52) weeks upon determination that the requirements of section 3 of this chapter are still met.

(b) The amount of additional benefits determined for each subsequent award may not exceed the level of the initial determination.

*As added by P.L.224-1985, SEC.5.*

**IC 22-3-11-5**

**Expert medical testimony**

Sec. 5. The board may secure expert medical testimony as it considers necessary at the expense of the fund to protect the fund against questionable claims for benefits.

*As added by P.L.224-1985, SEC.5.*

**IC 22-3-11-6****Rules; eligibility for benefits**

Sec. 6. The board shall adopt rules under IC 4-22-2 for the following:

- (1) The initial determination of an employee's eligibility for benefits under section 3 of this chapter.
- (2) The determination of an employee's eligibility for additional benefits under section 4 of this chapter.

*As added by P.L.95-1988, SEC.21.*